

1
2
3
4
5
6
7 KING MWASI,
8 Plaintiff,
9 v.
10 R. BROOMFIELD, et al.,
11 Defendants.

Case No. [21-cv-06355-JD](#)

12
13 **ORDER REMANDING ACTION TO
14 STATE COURT**

15 Re: Dkt. No. 12

16 Plaintiff, a state prisoner, filed a pro se civil rights complaint under 42 U.S.C. § 1983 and
17 various state laws. Defendants removed this action from Marin County Superior Court. This
18 Court dismissed the complaint with leave to amend noting that plaintiff failed to present any
19 cognizable federal claims. Plaintiff responded and stated that this action is better suited in state
20 court. Dkt. No. 10 at 1. The Court provided plaintiff an opportunity to disavow any and all
21 federal claims and request a remand to state court. He was informed that the federal claims would
22 be dismissed with prejudice and he would not be able to proceed with a federal due process claim
23 regarding his inmate appeals and his claims under the Americans with Disabilities Act. Plaintiff
24 filed a response and indicates that he wishes to waive all of his federal claims. Dkt. No. 12 ¶ 5.

25 Because plaintiff has expressly disavowed any federal claims, the case will be remanded to
26 state court so that plaintiff may litigate in his chosen forum.¹ *See Swett v. Schenk*, 792 F.2d 1447,
27 1450 (9th Cir. 1986) (“it is within the district court’s discretion, once the basis for removal
jurisdiction is dropped, whether to hear the rest of the action or remand it to the state court from
which it was removed”); *Plute v. Roadway Package System, Inc.*, 141 F. Supp. 2d 1005, 1007

28
29 ¹ The Court declines to exercise supplemental jurisdiction over the state law claims. *See United
Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966).

1 (N.D. Cal. 2001) (court may remand sua sponte or on motion of a party). Plaintiff specifically
2 waived the federal claims; therefore, any federal claims are dismissed with prejudice.

3 Plaintiff's motion (Dkt. No. 12) is **GRANTED** and this action is **REMANDED** to the
4 Marin County Superior Court for such other and further proceedings as that court deems proper.
5 The Clerk is requested to **CLOSE** the case and send the necessary materials to the Marin County
6 Superior Court for the remand. All further motions must be filed in state court.

7 **IT IS SO ORDERED.**

8 Dated: January 5, 2022

9
10
11 JAMES DONATO
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
Northern District of California